

REMARKS

Status of the Claims

Claims 1–26 were pending in the present application.

Claims 16–26 were withdrawn from consideration.

Claims 1–15 were rejected.

By way of this amendment, claims 5-15 have been amended, claims 16-23 have been canceled and new claims 27–36 have been added.

Upon entry of this amendment, claims 1–15 and 24-36 will be pending.

Summary of the Amendment

Claim 5 has been amended to be an independent claim which recites specific mutant strains of *P. fluorescens*.

Claims 7, 10, 12 and 15, which are each dependent on claim 5 have been amended to be clearer and more definite.

Claims 6, 8, 9, 11 and 13, which refer to pure mutant strains of *P. fluorescens*, have been amended to be dependent on new claim 33 which also refers to pure mutant strains of *P. fluorescens*. Claims 6, 8, 9, 11 and 13, have also been amended to be clearer and more definite.

Claim 14 has been amended to be clearer and more definite.

New claims 27-32, which are each dependent on claim 1, refer to biologically pure bacterial culture of at least one mutant strain of *P. fluorescens*, as does claim 1. New claim 27 further recites that the biologically pure bacterial culture of at least one mutant strain of *P. fluorescens* has a mutant strain of *P. fluorescens* which includes a mutant gene. New claims 28-31 further recites that the biologically pure bacterial culture of at least one mutant strain of *P. fluorescens* has a mutant strain of *P. fluorescens* produces alginates with certain characteristics.

New claims 33-36 refer to pure mutant strains of *P. fluorescens*.

Support for the amendments and new claims are found throughout the specification and claims as amended. No new matter has been added.

Claim Objections

Claims 6, 9, and 11 stand objected to due to recitation of “claims 1.” Claims 6, 9, and 11 have been amended to correct the obvious typographical error. Applicants respectfully request the amendment to be withdrawn.

Claim Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1–4, 6, 8, 9, 11, 13, and 14 stand rejected under 35 U.S.C. § 112, first paragraph, for allegedly containing subject matter which was not described in the specification in such a way to reasonably convey to one skilled in the art that the inventors, at the time of the application was filed, has possession of the claimed invention.

Applicants respectfully disagree. Applicants respectfully urge that specific embodiments disclosed are sufficient to establish that Applicants were in possession of the claimed invention at the time the application was filed. The specification discloses nine different mutant strains of *P. fluorescens* which exhibit the levels of alginate production set forth in claims 1–4. Among those strains are specific embodiments which produce alginates having the characteristics set forth in claims 6, 8, 9 and 11. Claims 13 and 14 refer to specific changes to *P. fluorescens*.

There is no requirement that every mutant covered by the claims must be described, only a representative number. Applicants have met this burden. The claims are in compliance with the requirements of the first paragraph of 35 U.S.C. § 112. Accordingly, Applicants respectfully request that the rejection based upon 35 U.S.C. § 112, first paragraph be withdrawn.

Claims 1 – 4, 6, 8, 9, 11, 13, and 14 stand rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing the enablement requirement on two separate grounds. The Office alleges that the specification does not enable claims reciting any mutant *P. fluorescens* as compared to the specific set of strains listed. The Office also alleges that the scope of the claims is not

commensurate with the enablement provided by the disclosure with regard to the extremely large numbers of ways to mutate one or more alginate biosynthetic pathway genes.

Applicants respectfully disagree. It is well established that Applicants' assertions that the claims are enabled cannot be properly challenged in the absence of evidence and reasoning to the contrary. No evidence has been provided to support the Office's conclusion that the claims are not enabled. Nothing in the record supports a finding that the claims are not enabled. To the contrary, the record fully supports Applicants' assertions. The Office has not established a basis upon which one skilled in the art would accept the objective truth of Applicants' assertions of enablement. In the absence of such basis, the rejection is improper and should be withdrawn. Moreover, the evidence of record overwhelming supports the conclusion that the claims are enabled. Applicants have taught how to make and use the claimed invention. Nothing in the record establishes otherwise. The claims are in compliance with the requirements of the first paragraph of 35 U.S.C. § 112. Applicants respectfully request that the rejection based upon 35 U.S.C. § 112, first paragraph, be withdrawn.

Claims 5, 7, 10, 12, and 15 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to contain subject matter which was described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. More specifically, the Office asserts that the mutant organism essential to the claimed invention have not be shown to be publicly known and freely available. Applicants note that page 6, lines 22-27, of the specification disclose specific strains of *Pseudomonas* which have been deposited under the Budapest Treaty.

Applicants submit that the strains will be released to the public upon issuance of the patent, irrevocably and without restriction or condition. Having complied with the requirements under the Budapest Treaty, Applicants respectfully request that the rejection under 35 U.S.C. § 112 be withdrawn.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claim 12 stands rejected under 35 U.S.C. § 112, second paragraph, for allegedly failing to comply with the particularly point out and distinctly claim the subject matter of the current invention. The Office alleges that claim 12 is “confusing” by its recitation of “selected from the group.” (Office Action, p. 3). Applicants have amended claim 12 thereby obviating the basis of rejection. Applicants note that the Official Action appears to misstate this rejection in part by referring to claim 24 initially and then claim 12 when discussing the specific grounds for rejection. Applicants have not addressed any issues with respect to claim 24 because it appears to be a typographical error. In the event the Office intended some basis for rejected claim 24, Applicants respectfully request clarification of the rejection. Applicants respectfully request that the rejection based upon 35 U.S.C. § 112, second paragraph, be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claims 1–4 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Huisman, et. al., US 2004/0014197 (hereinafter “Huisman”). In order to anticipate the claims, the alleged prior art references must disclose, expressly or inherently, each and every limitation in the claims. Huisman discloses bacterial production of PHA polymers in intracellular granules which are isolated from disrupted bacterial cells. Huisman does not disclose, teach, or suggest any bacterial strain, let alone a *Pseudomonas* strain, that produces at least 10 grams of alginate per liter of medium as recited in the present claims. The claimed invention is not disclosed in Huisman. The claimed invention is not disclosed in Huisman. Accordingly, the reference does not anticipate the claims. Applicants respectfully request that the rejections based upon 35 U.S.C. § 102(e) be withdrawn.

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Conclusion

Claims 1-15 and 24-36 are in condition for allowance. A notice of allowance is earnestly solicited. Applicants invite the Examiner to contact the undersigned at 610.640.7855 to clarify any unresolved issues raised by this response.

The Commissioner is hereby authorized to charge any deficiencies of fees and credit of any overpayments to Deposit Account No. 50-0436.

Respectfully Submitted,

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